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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/822,961

03/30/2001

Mark Bunger

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8324

28554

7590

10/20/2008

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EXAMINER

HAIDER, FAWAAD

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

10/20/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/822,961	<b>Applicant(s)</b> BUNGER ET AL.	
	<b>Examiner</b> FAWAAD HAIDER	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/30/2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/18/08, 11/12/07</u> .                                       | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kliger et al. (7,028,072) in view of Gardenswartz et al (6,055,573).

Kliger et al. and Gardenswartz et al. disclose a method for facilitating a transaction between at least one user, at least one merchant, and at least one associate. Kliger et al. disclose:

transferring, from a user processing device to an associate processing device, a user identification value (official notice is taken of the old and well known practice of passing a PC identification value along with communications emanating from a user computer);

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inputting by a user, into the user processing device, an address for an associate Web site on the associate processing device (col. 4 lines 9-12, the client computer with web browser 200 requests a web page from a web server 210 (the associate processing device) using a URL);

transferring, into the user processing device from the associate processing device, a first merchant link for a first merchant Web site on a first merchant processing device (col. 4, lines 13-18,...the web page server 210 will store a cookie on the client computer as part of the reply to the input on the web page);

selecting, by the user, the first merchant link (user makes a request for a web page col. 4 line 38);

transferring, into the user processing device from the associate processing device, information regarding a first product from the first merchant Web site (advertisement banners are read as information which are transferred into the user client computer from the associate processing device 210);

converting the user identification value to a promotional information (the cookie from the user device is read as an identification value which must contain the ID for the user in order to cause promotional information e.g. profile data to be retrieved see col. 5 lines 5-15);

transferring, from the associate processing device to the merchant processing device, the promotional information and the purchase information (the profile information at server 230 is read as the agent for the merchant and the cookie

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associated with the user is read as promotional information which passes from the server 210 to the server 230).

However, there appears to be no disclosure in Kliger et al. for:

obtaining, by a user, a user identification value that is included in a package of a product that has been purchased by the user;

selecting, by the user, the first product to purchase;

providing, by the user, purchase information for purchasing the first product;

adding the promotional information, by the associate processing device, to the purchase information responsive to the user identification value;

transferring, from the user processing device to the associate processing device, the purchase information.

However, Gardenswartz et al. do disclose obtaining, by a user, a user identification value that is included in a package of a product that has been purchased by the user (see Figures 2a-2b, 3, 7-8). Gardenswartz et al also disclose collecting consumer purchase histories once a selection is made a data base 8 is updated. It would be obvious to modify Kliger et al. to provide a purchase based system and include as part of the profile 255 the purchase habits of the user, the motivation would be better direct marketing techniques.

Re Claim 2: In Kliger et al., a browser is a proxy server.

Re Claim 3: Official notice is taken of browser framing.

Re Claim 4: In Kliger et al., an advertisement is read as a key value (see Figure 2 and col.4, lines 7-26).

Re Claim 6: In Kliger et al., see applets as transferring to a second merchant site.

Re Claims 5, 7, 8: Gardenswartz et al. discloses wherein the user identification value is an alphanumeric code that is located inside the package of the product, and also provides a list of merchant links responsive to those values (see Figures 2a-2b, 3, 7-8). It would be obvious to transfer, from the user processing device in Kliger et al. to the associate processing device, the pass code value of Gardenswartz et al. the motivation being the identification of the user and the merchant links as part of the Applets in Kliger et al. would obviously respond to the ID.

Re Claim 9: In Kliger et al., profile parameter database 255 is relational.

Re Claim 10: In Kliger et al., advertisements are always focused on key issues.

### ***Response to Arguments***

4. Applicant's arguments filed 6/10/2008 with respect to claims 1-10 have been fully considered but they are not persuasive. The applicant argues that the Office Action has not properly identified where the claimed "a user identification value that is included in a package of a product..." is disclosed in the prior art. The Examiner respectfully disagrees. In Figure 2a of Gardenswartz, a customer identification number is disclosed. Then in Figure 2b, a SKU, UPC code, store/chain, price, and date are disclosed regarding the product information. In Figure 3, cookie numbers and CIDs (customer IDs) are disclosed. In Figure 7 (steps 62 and 64), Gardenswartz disclosed receiving and storing registration information (including customer identification, or CID) from the consumer.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fawaad Haider/

Examiner

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FIH

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627